

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

MARK BARCLAY,)	Case No. 5:05CV143
)	
Petitioner,)	JUDGE CHRISTOPHER BOYKO
)	Magistrate Judge George J. Limbert
vs.)	
)	
MARGARET BRADSHAW, WARDEN,)	<u>ORDER</u>
)	
Respondent.)	

Petitioner has filed a petition for federal habeas corpus pursuant to 28 U.S.C. § 2254 in the above-referenced case. ECF Dkt. #1. On March 24, 2005, the Honorable Christopher Boyko referred the instant matter to the undersigned for a Report and Recommendation. ECF Dkt. #5. On that same date, the undersigned issued an Order directing Respondent to file an answer to Petitioner's petition within sixty days and ordering Petitioner to file a traverse, should he desire to do so, within thirty days of Respondent's answer. *Id.* In that Order, the undersigned also directed the Clerk of Courts to forward a copy of Petitioner's §2254 federal habeas corpus petition to Respondent Attorney General of the State of Ohio by regular mail. *Id.* On July 28, 2005, Petitioner filed a motion for the entry of default against Respondent for Respondent's failure to answer the petition. ECF Dkt. #7.

Upon receipt of Petitioner's motion for entry of default, the undersigned reviewed the docket of this case and discovered that the Clerk of Courts had not indicated on the docket that she had mailed Petitioner's §2254 federal habeas corpus petition to Respondent as ordered in the

March 24, 2005 Order. The Ohio Attorney General's Office confirmed the lack of service of Petitioner's §2254 federal habeas corpus petition by telephoning this Office and reporting that it had only received a copy of Petitioner's motion for entry of default and had never received a copy of the petition itself.

Because of this defect in service, this Court DENIES Petitioner's motion for entry of default as MOOT (ECF Dkt. #7) and ORDERS that the Clerk of Courts serve Petitioner's 28 U.S.C. § 2254 petition and brief on the Attorney General of the State of Ohio at Ohio Attorney General's Office, Corrections Section, 150 East Gay Street, 16th Floor, Columbus, Ohio 43215.

This Court also issues a new briefing order, ORDERING that Respondent Attorney General file an Answer to Petitioner's petition and brief within sixty (60) days of the date of this Order and Petitioner file his traverse, if he deems one necessary, within thirty (30) days from the filing of Respondent's answer.

IT IS SO ORDERED.

August 2, 2005
DATED

/s/George J. Limbert
GEORGE J. LIMBERT
UNITED STATES MAGISTRATE JUDGE